

25

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 3RD DAY OF APRIL 1998

B E F O R E

THE HON'BLE MR. JUSTICE TIRATH S. THAKUR

WRIT PETITION Nos.2342/1998

C/w. Nos.4446/98, 3265/98, 4320/98,

4143/98, 4051/98, 4822-4826/98,

5060/98, 43016/95, 10329-330/94

14545/94, 17802/94, 18970/94, 19958/94

21576/94, 21662/94, 21962/94, 21972/94,

22260 to 62/94, 23821 to 23/94, 23927-28/94

24592/94, 30897 to 99/94, 30906-908/94,

33723/94, 3511/94, 31256/97, 24263/96

3428-29/98, 6309/98, 6148-56/98,

5941/98, 5478-79/98, 6667/98, 7659&60/98, ~~6310/98, 8399/98, 7922-27/98, 7902/98, 8930/98,~~

6310/98, 8399/98, 7922-27/98, 7902/98, 8930/98,

IN W.P. No.2342/98// 10186-10188/1998,

BETWEEN : 9659-9663/98, 9172/1998.

Basavaraj,
S/o. Prabhushetty Bhanthe,
Major,
Occ: P.W.D. Contractor,
R/o. Hararogeri,
Dist. Bidar.

.. PETITIONER

(By Sri. J.V. Hulsoor, Adv.)

AND :

1. The Chief Accounts Officer,
Bagalkot Development Authority,
Bagalkot, Dist: Bagalkot.

2. The Executive Engineer,
Bagalkot Development
Authority, Bagalkot,
Dist: Bagalkot.

.. RESPONDENTS

(By Sri.

This Petition is filed under Articles 226
& 227 of the Constitution of India with a prayer
to direct R1 not to deduct the royalty from the
petitioner's 3rd bill for a sum of Rs.3 lakhs.

IN W.P. No 4446/98

BETWEEN :

M. Nagayya Shetty,
Age: 45 years,
S/o. Late Subbanna Shetty,
Vaishali Complex,
Shastri Circle,
Kundapura - 576 201.

.. PETITIONER

(By Sri. G.A. Srikante Gowda, Adv.)

AND :

1. The State of Karnataka,
by its Secretary,
Department of Industries
& Commerce,
Bangalore.
2. Executive Engineer,
National Highway,
Mangalore Division,
3. Executive Engineer,
P.W.D., Mangalore Division,
4. Executive Engineer,
National High Way,
Karwar Division,
Executive
5. Executive Engineer,
Minor Irrigation,
Mangalore Division,
6. Executive Engineer,
Minor Irrigation,
Haliyal Division,
North Kanara District.

.. RESPONDENTS

(By Sri.

This Petition is filed under Articles 226 & 227 of the Constitution of India with a prayer to direct the respondents to forbear from enforcing the Schedule or rates to the petitioner as per notification dt.20.3.90 vide Annexure-A issued by R1 & notification dt.28.5.94 vide Annexure-B.

IN W.P. No.3265/98

BETWEEN :

M/s. Jyothi Construction,
Company,
No.17, Rupali Dikshit Road,
Vile Park East, Bombay-57,
by its Partner,
Manohar, 55 years,
S/o. Mukkannappa Kori,
Occ: Contractor,
R/o. Bellary.

.. PETITIONER

(By Sri. Basavaraj Kareddy, Adv.)

AND :

1. The State of Karnataka,
by its Secretary,
Department of Mines &
Zoology, M.S. Buildings,
Bangalore.
2. The Executive Engineer,
P.W.D., Gadag.
3. The Resident Engineer,
Gulbarga University,
Gulbarga.

.. RESPONDENTS

(By Sri.

This Petition is filed under Articles 226 & 227 of the Constitution of India with a prayer to direct the respondents not to collect royalty from the bills of the petitioners under Minor Minerals Concession Rules 1990.

IN W.P. No.4320/98

BETWEEN :

Shivaji, 50 years,
S/o. Narayanarao Bhosale,
Occ: Class-I,
P.W.D. Contractor,
Opp. Modern Talkies,
Vivekanand Nagar,
Dharwad.

... PETITIONER

(By Sri. Basavaraj Karedy, Adv.)

AND :

1. The Resident Engineer,
Gulbarga University,
Gulbarga.
2. The Estate Officer,
University of Agricultural
Science, Dharwad.

.. RESPONDENTS

(By Sri.

This Petition is filed under Articles 226 & 227 of the Constitution of India with a prayer to direct the respondents not to collect royalty from the bills of the petitioner under Minor Minerals Concession Rules, 1990.

IN W.P. No.4143/98

BETWEEN :

Sri. Munir-- Yusuf Bargir,
55 years of Age,
Occ: P.W.D. Contractor,
Nakband Galli, Athani,
Belgaum District.

.. PETITIONER

(By Sri. S.M. Patil, Adv.)

AND :

1. The Executive Engineer,
H.B.C. Division,
Athani, Belgaum District.

.. 5

2. The Executive Engineer,
G.L.B.C. Division,
Jamkhandi,
Bijapur District.
3. The Executive Engineer,
A.P.M.C. Division,
Belgaum, Belgaum Dist.
4. The Executive Engineer,
P.W.D. Division Belgaum,
Belgaum.
5. The Executive Engineer,
Zilla Parishad Division,
Chikodi Dist: Belgaum.
6. The Executive Engineer,
M.I. Division,
Belgaum.

.. RESPONDENTS

(By Sri.

This Petition is filed under Articles 226 & 227 of the Constitution of India with a prayer to direct the respondents to prohibit from endorsing the schedule of rates to the petitioner as per the notification dt.20.30.3.90 vide Ann-B and also the notification dt.28.5.94 vide Ann-C.

IN W.P. No.4051/98

Sri. Subhash Basavantappa
Marakumbi, Major,
S/o. Sri. Basavantappa Marakumbi,
Occ: Contractor,
R/o. Plot No.213, II Sector,
Shivabasav Nagar,
Belgaum.

.. PETITIONER

(By Sri. Jagdish Patil, Adv.)

AND :

1. The Executive Engineer,
C&B, Belgaum,
Belgaum,

.. 6

2. The Executive Engineer,
World Bank Project,
(Zilla Parishad Division),
Belgaum.
3. The Executive Engineer,
Zilla Parishad Division,
Belgaum.
4. The Executive Engineer,
Zilla Parishad Division,
Belgaum.
5. The Executibe Engineer,
M.R.B.C.C. Nargund,
Dist: Dharwad.
6. The Executive Engineer,
Irrigation Division,
Koujalagi Camp.
Tq: Gokak,
Dist: Belgaum.
7. The Secretary,
Agricultural Produce
Marketing, Committee,
Belgaum.
8. The Executive Engineer,
A.P.M.C., Saundatti,
Dist: Belgaum.
9. The Executive Engineer,
A.P.M.C., Bilhongal,
Dist: Belgaum.
10. The Commissioner,
City Corporation of
Belgaum, Belgaum.
11. The Commissioner,
Belgaum Urban Development,
Authority, Belgaum.
- 1 2. The Executive Engineer,
National High Way Divn.,
Belgaum.

.. RESPONDENTS

(By Sri.

This Petition is filed under Articles 226 & 228 of the Constitution of India with a prayer to direct the respondents to prohibit from endorsing the schedule of rates to the petitioners as per the notification dt.20/30.3.90 vide Annexure-B and also the notification dt.28.5.94 vide Ann-C,

IN W.P. No.4822-26/98

BETWEEN :

1. B. Ranganatha,
S/o. Late M.V. Bangarāah,
30 years,
Occ: Contractor,
R/at No.121, Medahalli,
Old Madras Road,
Bangalore-49.
2. H.K. Venu Gopal,
S/o. Late K. Krishnappa,
35 years,
Occ: Contractor,
R/at No.72, 2nd Cross,
Hoodi, Bangalore-48.
3. M. Lokesh Reddy,
S/o. Muniswamy Reddy,
34 years,
Occ: Contractor,
R/at No.189, 1st Cross,
Hoodi Village,
Bangalore - 48.
4. M. Chandra Shekar,
S/o. Muniswamy Reddy,
28 years,
Occ: Contractor,
R/at No.189, 1st Cross,
Hoodi village,
Bangalore - 48.
5. G. Chandre Gowda,
S/o. Late Govindappa,
Age: 36 years,
Occ: Contractor,
R/at Puttenahalli,
Yelahanka Post,
Bangalore - 64.

.. PETITIONER

(By Sri. K.M.Eswarappa, Adv.)

AND :

1. The State of Karnataka,
rep. by its Secretary,
P.W.D., M.S. Buildings,
Bangalore - 1.
2. The State of Karnataka,
rep. by its Secretary,
Commerce & Industries
Department,
M.S. Building,
Bangalore-1.
3. Commissioner,
City Municipal Counsel,
Krishna Rajapuram,
Bangalore - 36.
4. Commissioner,
City Municipal Counsel,
Mahadevapur,
Bangalore-68.
5. Executive Engineer,
Karnataka Slum Clearance
Board, Bangalore.
6. Commissioner,
Bangalore Mahanagara
Palike, Bangalore.

.. RESPONDENTS

(By Sri.

This petition is filed under Articles 226 & 227 of the Constitution of India with a prayer to direct the respondents to deduct any royalty from out of the bills of the petitioners in respect of the works carried out by them for the Government and local bodies pursuant to the Notification vide Ann-A, dt.15.7.86 and dated 20.3.90 vide Ann-B and 28.5.94 vide Ann-C and to refund the royalty amount already collected from petitioner.

IN W.P. No.5060/98

BETWEEN :

Sri. Imam Meerasab Mudalagi,
Major, Occ: Class-I Contractor,
R/o.297, Hindwadi,
Belgaum.

.. PETITIONER

(By Sri. B.S. Kamate, Adv.)

AND :

1. The State of Karnataka,
by its Secretary to
the Department of Industries
and Commerce, Vidhana Soudha,
Bangalore-1.
2. The State of Karnataka,
by its Secretary to the
P.W.D. (Irrigation),
M.S. Buildings,
Bangalore-1.
3. The A.P.M.C.,
Bailhonga,
by its Secretary,
Dist: Belgaum.
4. The A.P.M.C.
Hubli, Amargol,
by its Secretary,
Dist: Dharwadi.
5. The Executive Engineer,
Minor Irrigation Divn.,
Belgaum.
6. The Executive Engineer,
Zilla Panchayath,
Belgaum.

.. RESPONDENTS

(By Sri. Ashok Naik, HCGP)

This Petition is filed under Articles 226 & 227 of the Constitution of India with a prayer to direct the respondents to forbear from enforcing the schedule of rates to the petitioner as per the notification dt.15.7.86 vide Annexure-A, notification dt.20.3.90 vide Annexure-B and Notification dt.28.5.94 vide Annexure-C.

IN W.P. No.43016/95

BETWEEN :

Govind,
S/o. Bhimrao Ron,
age: 35 years,
Occ: Business,
R/o. Malamaddi,
Dharwar.

.. PETITIONER

(By Sri. Ramakanth V. Desai, Adv.)

AND :

1. The Director,
Department of Mines &
Geology, Lalbagh Road,
Bangalore.
2. The Senior Geologist,
Department of Mines &
Geology, Gandhinagar,
Bellary.

.. RESPONDENTS

(By Sri. Ashok Naik, HCGP)

This petition is filed under Articles 226 & 227 of the Constitution of India with a prayer to quash vide Annexure-B dt.7.9.94 by R2.

IN W.P. No.10329-330/94

BETWEEN :

Sri. K. Balaji, 40 years,
S/o. A. Krishnamurthy,
R/at Sabanakatti,

.. 11

Manneral PO,
Kushtagi Taluk,
Raichur District,
repl by Power of Attorney
Holder - Sri. Munirathnam,
S/o. Munirathnam Naidu,
Major, R/at Behind Deepa
Building, Ilkal,
Bijapur Dist: 587 125.

.. PETITIONER

(By Sri. B.L. Acharya, Adv.)

AND :

1. State of Karnataka,
rep. by its Secretary,
Department of Revenue,
Vidhana Veedhi, Bangalore-1.
2. The Director,
Department of Mines &
Geology, Lalbagh Road,
Bangalore - 27.
3. The Senior Geologist,
Dept. of Mines & Geology,
Raichur District.
4. The Deputy Commissioner,
Raichur District,
Raichur.
5. The Assistant Commissioner,
Lingasugur Taluk,
Lingasugur.
6. The Tahsildar,
Lingasugur Taluk,
Lingasugur.
7. The Assistant Commissibner,
Yelburga.
8. The Tahsildar,
Yelburga Taluk,
Yelburga.

.. RESPONDENTS

(By Sri. Ashok Naik, HCGP)

This petition is filed under Articles 226 & 227 of the Constitution of India with a prayer to direct the R4 to issue transport permits under rule 92A of KMMC Rules to transport the quarried granite block without insisting on payment of royalty. etc.,

IN W.P. No. 14545/94

BETWEEN :

Pawan Minerals,
Lokapur,
having its limestone mines
at Lokapur, Bijapur Dist.,
rep. by its Proprietor
Sri.B.C. Udpudi.

.. PETITIONER

(By Sri. R. Gururajan, Adv.)

AND :

1. Union of India,
rep. by its Secretary.
Ministry of Steel & Mines,
Dept. of Mines,
Khan Vibhag, New Delhi..
2. Senior Geologist,
Office of the Mines &
Minerals, Bijapur Dist.
3. Kanoria Industries Limited,
having its Cement Division
at Bagalkot, Bijapur Dist.,
by its Director.

.. RESPONDENTS

(By Sri.

This petition is filed under Article 226 of the Constitution of India with a prayer to declare that the notification bearing No.GSR 100(E) dt. 17.2.92 at Annexure-C issued by 1st respondent as void and etc.,

IN W.P. No. 17802/94

BETWEEN :

Sri. M.B. Gajinkar,
S/o. Late B.K. Gajinkar,
34 years,
Occ: Leaseholder,
R/o. Tariwada,
Sadashivgad, Karwar.

.. PETITIONER

(By Sri. Vishnu D. Bhat, Adv.)

AND :

1. The State of Karnataka,
by Secretary to Government,
Department of Industries
& Commerce, M.S. Buildings,
Bangalore - 1.

2. The Director,
Mines & Geology Dept.
Lalbagh Road,
Bangalore.

3. The Senior Geologist,
Department of Mines
& Geology,
Karwar, U.K. Dist.

.. RESPONDENTS

(By Sri.

This petition is filed under Article 226 of the Constitution of India with a prayer to quash the notification dt. 28.5.94 vide Ann-E in so far as it provides for collection of royalty of Rs. 15/- per ton in respect of ordinary sand as per schedule - II to the KMMC Rules, 1994.

IN W.P. No. 18970/94

BETWEEN :

Smt. Premabai S. Revankar,
W/o. Suresh Revankar, 40 years,
R/at Vivekanand Nagar,
Kodibag, Karwar,
U.K. District.

.. PETITIONER

(By Sri. Vishnu D. Bhat, Adv.)

AND :

1. State of Karnataka,
by Secretary to Government,
Department of Industries
& Commerce, M.S. Buildings,
Bangalore.
2. The Director,
Mines & Geology Dept.,
Lalbagh Road,
Bangalore.
3. The Senior Geologist,
Department of Mines
& Geology,
Karwar.

.. RESPONDENTS

(By Sri. Ashok Naik, HCGP)

This petition is filed under Article 226 of the Constitution of India with a prayer to quash the notification dt.28.5.94 vide Annexure-D in so far as it provides for collection of royalty of Rs.15/- per ton in respect of ordinary sand as per Schedule II to the KMMC Rules, 1994.

IN W.P. No.19958/94

BETWEEN :

Sri. Surendra K. Kalgutkar,
S/o. Krishna L. Kalgutkar,
Major, R/o. Kōdi Bag,
Tamsewada,
Karwar Taluk,
U.K. Dist.

.. PETITIONER

(By Sri. S.B. Mulkannappa, Adv.)

AND :

1. State of Karnataka,
by Secretary to Govt.
Department of Industries
& Commerce, M.S. Buildings,
Bangalore-1.

: 15 :

2. The Director,
Mines & Geology Dept.,
Lalbagh Road, Bangalore.
3. The Senior Geologist,
Dept. of Mines & Geology,
Karwar.

.. RESPONDENTS

(By Sri. Ashok Naik, HCGP)

This petition is filed under Article 226 of the Constitution of India with a prayer to quash the notification No.CI.418, MRC No.92 Bangalore dt. 28.5.94 vide Annexure-C in so far as it provides for collection of royalty of Rs.15/- per ton in respect of ordinary sand as per Schedule-II to the Karnataka Minor Minerals Concession Rules, 1994, under the facts and circumstances of this case.

IN W.P. No.21576/94

BETWEEN :

Sri. Vinod R. Chipkar,
Adult, Leaseholder,
R/o. Nandanagadda,
Karwar, U.K. District.

... PETITIONER

(By Sri. Vishnu D. Bhat, Adv.)

AND :

1. The State of Karnataka,
by its Secretary to Govt.,
Dept. of Industries &
Commerce, M.S. Buildings,
Bangalore-1.
2. The Director, Mines &
Geology Department,
Lalbagh Road, Bangalore.
3. The Senior Geologist,
Dept. of Mines & Geology,
Karwar, U.K. District.

(RESPONDENTS
ARE COMMON IN
W.P.No.21662/94,
21962/94,
21972/94,
22260-62/94
23821-23/94

.. RESPONDENTS

(By Sri. Ashok Naik, HCGP)

.. 16

This petition is filed under Article 226 of the Constitution of India with a prayer to quash the notification dt.28.5.94 vide Annexure-D insofar as it provides for collection of royalty of Rs.15/- per ton in respect of ordinary sand as per schedule II to the KMMC Rules, 1994.

IN W.P. No.21662/94

BETWEEN :

Sri. James Razario,
S/o. L.P. Razario,
34 years,
Leaseholder,
R/o. Nandanagadda,
Karwar, U.K. District.

.. PETITIONER

(By Sri. Vishnu D. Bhat, Adv.)

This petition is filed under Article 226 of the Constitution of India with a prayer to quash the notification No. CI.418 MRC 92 Bangalore dt. 28.5.94 at Annexure-D.

IN W.P. No.21962/94

BETWEEN :

M/s. Kamala Minerals,
by its Proprietor,
Sri. Taranath D. Waingankar,
aged 31 years,
R/o. Kodibag, Karwar,
U.K. District.

.. PETITIONER

(By Sri. Vishnu D. Bhat, Adv.)

This Petition is filed under Article 226 of the Constitution of India with a prayer to quash the notification dt.28.5.94 bearing No. CI 418 MRC 92 insofar as it provides for collection of royalty of Rs.15/- per ton in respect of ordinary sand as per Schedule II to the KMMC Rules, 1994.

IN W.P. No.21972/94

BETWEEN :

Nanda Nagesh Govekar,
S/o. Nagesh K. Govekar,
Major, R/o. Madibag,
Karwar Post,
Taluk: Karwar,
Dist: Uttara Kannada.

.. PETITIONER

(By Sri. S.B. Mukkannappa, Adv.)

This petition is filed under article 226 of the Constitution of India with a prayer to quash notification No.CI.418 MRC 92 Bangalore, dt.28.5.94 at Annexure-C.

IN W.P. No.22260-62/94

BETWEEN :

1. Arvind S. Thamse,
S/o. S.P. Thamse,
36 years, Leaseholder,
R/o. Thamsewada,
Kodibag, Karwar,
U.K. District.
2. Venkatesh G. Pednakar,
S/o. Ganu Pednekar,
aged 72 years, Leaseholder,
Alvewada, Kodibag,
Karwar, U.K. Dist.
3. Ajit Kalgutkar, 34 years,
S/o. Ganesh Kalgutkar,
Leaseholder, R/o. Kodibag,
Karwar, U.K. District.

.. PETITIONERS

(By Sri. Vishnu D. Bhat, Adv.)

This petition is filed under Article 226 of the Constitution of India with a prayer to quash the notification dt.28.5.94 No.CI 418 MRC 92, Bangalore in so far as it provides for collection of royalty of Rs.15/- per ton in respect of ordinary sand as per Schedule II to the KMMC Rules 1994, vide Annexure-C.

IN W.P. Nos.23821 - 823/94

BETWEEN :

1. W.P. No.23821/94

M.G. Gandhale,
S/o. Gundu Gandhale,
Age: 34 years,
R/at Plot No.99,
Ramnagar, Joida Taluk,
U.K. Dist.

2. W.P. No.23822/94

D.G. Gandhale,
S/o. Gundu Gandhale,
38 years,
R/at Plot No.88,
Rmanagar,
Joida Taluk,
U.K. Dist.

3. W.P. No.23823/94

Jagadish V. Rane,
S/o. Vishwanath Rane,
28 years, R/at Aveda,
Joida Taluk,
U.K. District.

.. PETITIONERS

(By Sri. Madhusudan R. Naid, Adv.)

This Petition is filed under Articles 226 & 227 of the Constitution of India with a prayer to quash the notification No. C1 418 MRC 92 Bangalore dt. 28.5.94 at Annexure-J.

IN W.P. Nos.23927-28/94

BETWEEN :

Sri. Ravindra A. Klagutkar,
S/o. Anandu Kalgutkar,
Age: 22 years,
Occ: Leaseholder,
R/o. Tariwada,
Sadashivgad, Karwar,
U.K. District.

.. PETITIONER

(By Sri. Vishnu D. Bhat, Adv.)

AND :

1. The State of Karnataka
by Secretary to
Government,
Department of Industries,
and Commerce, M.S. Buildings,
Bangalore-1.

(RESPONDENTS
ARE COMMON IN
W.P.No.24592/94
30897-99/94

2. The Director, Mines &
Geology Department,
Lalbagh Road,
Bangalore - 27.

3. The Senior Geologist,
Department of Mines
& Geology,
Karwar,
U.K. District.

.. RESPONDENTS

(By Sri. Ashok Naik, MCGP)

This Petition is filed under Article 226 of
the constitution of India with a prayer to quash
the notification No. CI 418 MRC 92 Bangalore
dt. 28.5.94 at Annexure-D.

IN W.P. No.24592/94

BETWEEN :

Sri. Sunil D. Shetty,
S/o. Diwakar Shetty,
Major, R/at. Londa,
Khanapur Taluk,
Belgaum District.

.. PETITIONER

(By Sri. S. Prakash Shetty, Adv.)

This petition is filed under Articles 226 &
227 of the Constitution of India with a prayer to
direct the respondents ~~not~~ to collect the royalty
at the enhanced rate for issuing the permits as
per the notification dt.28.5.94 issued by 1st
respondent in No. CI 418 MRC 92 at Annexure-D.

IN W.P. Nos. 30897-899/94

BETWEEN :

Suresh, Major,
S/o. Basvanniappa Kadrolli,
Occ: Agriculture,
R/o. Khanapur,
Taluk: Khanapur,
Dist: Belgaum.

.. PETITIONER

(By Sri. Mohan Shantanagoudar, Adv.)

This Petition is filed under Articles 226 & 227 of the Constitution of India with a prayer to quash the notification dt. 28.5.94 vide Ann-C in so far as it provides for the collection of royalty of Rs. 20 per ton in respect of ordinary sand as per Schedule II to the KMMC Rules 1994.

IN W.P. No. 30906-908/94

BETWEEN :

Shantinath Baburao Kabbur,
Major, Occ: Agriculture,
R/o. Nandgad,
Taluk: Khanapur,
Dist: Belgaum.

.. PETITIONER

(By Sri. Mohan Shantanagoudar, Adv.)

AND :

1. State of Karnataka,
by its Secretary to Govt.,
Dept. of Industries &
Commerce, M.S. Buildings,
Bangalore.
2. The Director, Mines &
Geology Department,
Lalbagh Road, Bangalore-27,
3. The Senior Geologist,
Dept. of Mines & Geology,
Belgaum.

(RESPONDENTS
ARE COMMON IN
W.P. No. 33723/94

.. RESPONDENTS

(By Sri. Ashok Naik, HCGP)

These Petitions are filed under Articles 226 & 227 of the Constitution of India with a prayer to quash the notification dt.28.5.94 vide Annexure-C in so far as it provides for the collection of royalty of Rs.20 per ton in respect of ordinary sand as per Schedule II to the KMMC Rules 1994.

IN W.P. No.33723/94

Sri. A.S. Tarihal, 40 years,
S/o. Shivalingappa,
R/o. No.376, Bazargalli,
Odagao, Belgaum.

.. PETITIONER

(By Sri. D.L.N. Rao, Adv.)

This Petition is filed under Article 226 of the Constitution of India with a prayer to restraining the respondents from demanding and collecting royalty from the petitioner in respect of ordinary sand at the rate of Rs.20/- per metric Tonne under Schedule II item 13(b) of KMMC Rules, 1994.

IN W.P. No.3511/94

BETWEEN :

G.P. Naik, Major,
Class I Contractor,
Mahantesh Nagar,
Belgaum.

.. PETITIONER

(By Sri. Kaleemulla Shariff, Adv.)

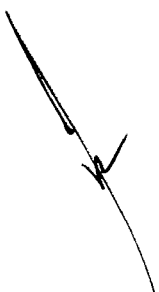
AND :

1. The State of Karnataka,
rep. by its Secretary
P.W.D., M.S. Building,
Dr. Ambedkar Veedhi,
Bangalore - 1.
2. The Secretary to Govt.,
Commerce & Industries
Department, M.S. Buildings,
Dr. Ambedkar Veedhi,
Bangalore - 1.

3. The Executive Engineer,
Zilla Parishad, Bagalkot Divn.,
Bagalkot, Bijapur District.
 4. The Executive Engineer,
Karnataka Electricity Board,
Ghataprabha, Bailhongal,
Belgaum District.
 5. The Executive Engineer,
Karnataka Electricity Board,
Belgaum.
 6. The Executive Engineer,
K.E.B. Bagalkot,
Bijapur District.
 7. The Executive Engineer,
K.S.R.T.C., Hubli,
Dharwad District.
 8. The Executive Engineer,
K.S.R.T.C., Civil Divn.,
Belgaum.
 9. The Secretary,
Agricultural Produce
Market Committee,
Ramdurg, Belgaum District.
 10. The Secretary,
Agricultural Produce/^{market}Committee,
Gokak, Belgaum District.
- .. RESPONDENTS

(By Sri. R.V. Jayaprakash, for R7,
Sri. Ashok Naik, HCGP)

This petition is filed under articles 226 &
227 of the Constitution of India with a prayer to
declare the notification dt.20.3.90/30.3.90 issued
by R1 vide Annexure-B as illegal.



IN W.P. No. 31256/97

BETWEEN :

Sri. U. Satish Shet,
S/o. U. Ramaiah Shet,
Hindu, Major,
P.W.D. Contractor,
Guruprasad, Valakad,
Udupi, D.K.

.. PETITIONER

(By Sri. G.A.K. Gowda, Adv.)

AND :

1. State of Karnataka,
by its Secretary,
Department of Irrigation,
Vidhana Soudha,
Bangalore.
2. The Managing Director,
Karnataka Power Corporation
Limited, Bangalore.
3. The Executive Engineer,
Zilla Panchayath Division,
Udupi, D.K.
4. The Executive Engineer,
Public Works Department,
Mangalore.
5. The Executive Engineer,
Minor Irrigation,
Mangalore.
6. The Executive Engineer,
Varahi Project Division,
Siddapura, U.K. District.

.. RESPONDENTS

(By Sri. K.G. Ramesh, Adv.
for R2, R5)

This Petition is filed under Articles 226 & 227 of the Constitution of India with a prayer to direct the respondents to forebear from enforcing the schedule of rates to the petitioner as per notification dt.15.7.96 vide Ann-A Notification dt.20.3.90 vide Annexure-B and the notification vide Annexure-C dt.28.5.94 all issued by R1.

IN W.P. No.24263/96

BETWEEN :

Sri. V. Ganesh, B.E.,
Major,
Class III PWD Contractor,
Naidu Street,
Chikmagalur.

.. PETITIONER

(By Sri. K.M. Mruthymajaya, Adv.)

AND :

1. The State of Karnataka,
Dept. of Industries &
Commerce, Vidhana Soudha,
Bangalore.
2. The Chief Manager,
K.S.I.D.C.,
Bangalore.
3. The Secretary,
A.P.M.C., Chikmagalur.
4. The Executive Engineer,
Zilla Parishad,
Chikmagalur.
5. The Executive Engineer,
Karnataka Housing Board,
Hassan.

.. RESPONDENTS

(By Sri. B.G. Sridharan, Adv. for R3,
Sri. K.R. Balakrishnan, for R5)

This Petition is filed under Articles 226 &
227 of the Constitution of India with a prayer to
direct the respondents to forbear from enforcing
the schedule of rates to the petitioner, as per
Annexure-A dt.15.7.96 and B dt.20.3.90 and C
dt.28.5.94 by R1.

IN W.P. Nos. 3428-29/98

W.P. No.3428/98

1. Shri. T. Balavenkata Reddy,
S/o. Late Sri. Putta Reddy,
aged about 41 years,

.. 25

W.P. No. 3429/98

2. Shri. G.V. Thimme Gowda,
S/o. Late Venkate Gowda,
Age: 56 years,

Both are R/pt. T.B. Extension,
Nagamangala Town,
Nagamangala Taluk,
Mandya District.

.. PETITIONERS

(By Sri. M. Papanna, Adv.)

AND :

1. The State of Karnataka,
rep. by Secretary,
Public Work Department,
M.S. Buildings,
Bangalore-1.
2. The Superintending Engineer,
Public Works Department,
Mysore Circle,
Nazarabad,
Mysore City.
3. The Executive Engineer,
Kabini Canal Division,
Kollegal, Mysore Dist.
4. The Executive Engineer,
Public Works Department,
Mandya Division, Mandya.

.. RESPONDENTS

(By Sri. Ashok Naik, HCG P)

These Petitions are filed under Articles 226 & 227 of the Constitution of India with a prayer to prohibit the respondents from enforcing the schedule of rates against the petitioners as per the notification vide AnnC, dt.20.3.90.

IN W.P. No.6309/1998

BETWEEN :

Sri. T.G. Shet, 53 years,
S/o. G.M. Shet,
Contractor - Class I,
'Gurukrupa',
Vidyanagar 2nd Cross,
Hubli - 21.

.. PETITIONER

(By Sri. Kaleemulla Shariff, Adv.)

AND :

1. The State of Karnataka,
rep. by its Principal
Secretary, Commerce &
Industries Department,
M.S. Building,
Dr. Ambedkar Veedhi,
Bangalore-1.
2. The Secretary,
P.W.D., M.S. Buildings,
Dr. Ambedkar Veedhi,
Bangalore-1.
3. Estate Officer,
University of Agricultural
Science, DHARWAD.
4. Controller,
University of Agricultural
Science, Dharwad.

.. RESPONDENTS

(By Sri.Ashok Naik, HCGP)

This Petition is filed under Articles 226 & 227 of the Constitution of India with a prayer to direct the respondents to forbear from enforcing the schedule of the rates to the petitioner as per the notification dt.13.7.86 vide Annexure-A, notification dt.20.3.90 vide Annex-B, notification dt.20.5.94 vide Annex-C.

IN W.P. Nos.6148-56/98

BETWEEN :

1. Shri. K. Raju,
S/o. Kuruppuswamy,
50 years,
Occ: Civil Contractor,
R/o. Hidkal Dam,
Tq: Hukkeri,
Dist: Belgaum.
2. Shri. M.S. Ajrekar,
S/o. Sitaram,
Major,
Occ: Civil Contractor,
R/o. H.No.76, Hidkal Dam,
Tq: Hukkeri,
Dist: Belgaum.
3. Shri. K.S. Mani,
S/o. K. Kaddeswamy,
44 years,
Occ: Civil Contractor,
R/o. H.N. RM-1,
Hidkal Dam,
Tq: Hukkeri,
Dist: Belgaum.
4. Shri.M. Perumal,
S/o. Manikkashetty,
Major,
Occ: Class-I Civil
Contractor,
R/o. H.No.A-85,
Hidkal Dam,
Tq: Hukkeri,
Dist: Belgaum.
5. Shri. H. Karumakarshetty,
S/o. Sanjeevshetty,
47 years,
Occ: Civil Contractor,
R/o. H.No.A-88, Hidkal Dam,
Tq: Hukkeri,
Dist: Belgaum.

6. Shri. K. Doraiswamy,
S/o. Kallimuthu,
47 years,
Civil Contractor,
R/o.H.NoA-70, Hidkal Dam,
Tq: Hukkeri,
Dist: Belgaum.
7. Shri.C.K. Mani,
S/o. C. Krishnan,
Age: 48 years,
Occ: Class-I Civil
Contractor,
R/o.H.No.A-92,
Hidkal Dam,
Tq: Hukkeri,
Dist: Belgaum.
8. Shri. C.K. Madhavan,
S/o. C. Krishnan,
52 years,
Occ: Civil Contractor,
R/o. H.No.A-92, Hidkila Dam,
Tq: Hukkeri,
Dist: Belgaum.
9. M/s. S.M.Angadi & Co.,
Belgaum, by its proprietor,
Shri. Shashidhar,
S/o. Mallappa Angadi,
Major, Occ: Class-I
Contractor,
Hindwadi, Belgaum.

.. PETITIONERS

(By Sri. M.N. Gadag, Adv.)

AND :

1. The State of Karnataka,
by its Secretary to the
Government, Finance Dept.,
Vidhana Soudha,
Bangalore.
2. The Executive Engineer,
G.R.B.C.C.Divn., No.2,
Hidkal Dam,
Tq: Hukkeri,
Dist: Belgaum.

3. The Executive Engineer,
G.R.B.C.C. Divn., No.3,
Gokak, Dist: Belgaum.
4. The Executive Engineer,
G.R.B. C.C.Divn., No.4,
Ghataprabha,
Dist: Belgaum.
5. The Executive Engineer,
G.R.B. C.C. Divn., No.5,
Koujalgi, Belgaum.
6. The Executive Engineer,
G.R.B. C.C.Divn., No.1,
Ghataprabha, Belgaum.
7. The Executive Engineer,
P.W.D. Division,
Belgaum.
8. The Executive Engineer,
Zilla Parishad Divn.,
Chikodi, Belgaum.
9. The Executive Engineer,
M.I. Divn., Belgaum.
10. The Executive Engineer,
Minor Irrigation Divn.,
Haliyal.
11. The Executive Engineer,
National Highway Division,
Belgaum.
12. The Commissioner,
Belgaum Urban Development
Authority, Belgaum.
13. The Executive Engineer,
The Karnataka Urban Water
Supply & Drainage Board,
Belgaum Division,
Belgaum.
14. The Executive Engineer,
The Karnataka Urban Water
Supply & Drainage Board,
Bijapur Division,
Bijapur.

15. The Executive Engineer,
The Karnataka Urban Water
Supply & Drainage Board,
Dharwad Division,
Dharwad.
16. The Executive Engineer,
Public Works Department,
~~M.S. Buildings,~~
Bangalore. Shimoga.
17. The Secretary,
P.W.D., M.S. Buildings,
Bangalore.
18. The Secretary,
Irrigation Department,
M.S. Buildings,
Bangalore.

.. RESPONDENTS

(By Sri. Ashok Naik, HCGP)

These Petitions are filed under Articles 226 & 227 of the Constitution of India with a prayer to prohibit the respondents from enforcing the schedule of rates to the petitioners as per the notification dt.20/30.3.90 vide Annexure-B and also notification vide Annexure-C dt.28.5.94.

IN W.P. No.5941/98

BETWEEN :

Sri. G.G. Waddar,
S/o. Govindappa, 60 years,
Class I Contractor,
Vidyanagar, Hubli-31,
Dharwad District.

.. PETITIONERS

(By Sri. Kaleemulla Shariff, Adv.)

and ;

1. The State of Karnataka,
rep. by its Principal Secretary,
Commerce & Industries Dept.,
M.S. Building, Dr. Ambedkar Veedhi,
Bangalore-1.

2. The Secretary,
P.W.D., M.S. Buildings,
Dr. Ambedkar Veedhi,
Bangalore-1.
3. The Superintending Engineer,
M.R.P. Division, Naviluteertha
Saundatti Taluk,
Belgaum District.
4. The Chief Engineer (O&M),
K.E.B. Hubli,
Dharwad District.
5. The Chief Engineer (O&M),
K.E.B. Gulbarga.
6. The Chief Engineer (Major Works)
K.E.B. (Norht), Davanagere.
7. The Executive Engineer,
Hubli-Dharwad Urban Development
Authority, Swimmingpool Complex,
Hubli, Dharwad District.
8. The Director,
Department of Agricultural
Marketing, Rajbhavan Road,
Bangalore-1.
9. The Managing Director,
Karnataka State Small Industries
Development Corporation,
Industrial Estate,
Rajajinagar,
Bangalore - 44.
10. The Chief Engineer,
National Highway,
Public Works Department,
Bangalore.
11. The Executive Engineer,
Department of Posts &
Telegraphs, Hubli,
Dharwad District.

.. RESPONDENTS

(By Sri. Ashok Naik, HCGP)

This Petition is filed under Articles 226 & 227 of the Constitution of India with a prayer to direct the respondents to forbear from enforcing the schedule of rates to the petitioner as per the notification vide Ann-A, B & C dt. 13.7.86, 20.3.90 & 20.5.94 respectively.

6. The Executive Engineer,
(City Engineer),
Corporation of City of
Belgaum, Belgaum.
7. The Executive Engineer,
Belgaum Urban Development
Authority, (BUDA), Belgaum.
8. The Executive Engineer,
P.W.D. Hubli Divn.,
Hubli.
9. The Executive Engineer,
GLBC & GRBC Hidkal Dam
Divn., Hidakal.
10. The Executive Engineer,
P.W.D. Dharwad Divn.,
Dharwad.
11. The Executive Engineer,
World Bank Project,
Zilla Parishad Division,
Belgaum.

.. RESPONDENTS

(By Sri. Ashok Naik, HCGP)

These Petitions are filed under Articles 226 & 227 of the Constitution of India with a prayer to direct the respondents to prohibit from endorsing the schedule of rates to the petitioners as per the Notification dt. 20/30.3.90, vide Annex-B & C dt. 28.5.94.

IN W.P. No. 6667/98

BETWEEN :

Sri. R.R. Mane, Major,
Railway & P.W.D. Contractor,
Near Railway Station,
Bagalkot,
Bijapur District.

.. PETITIONER

(By Sri. B.V. Khatageri, Adv.)

In W.P.Nos.7659 & 60/98.

BETWEEN :-

1. Sri.Ashok D.Kupati,
Age:Major, Occ:Contractor,
R/o Saundatti,Dt:Belgaum.
2. Sri.Rudragouda S.Patil,
Aged Major, Occ:Contractor,
R/o Shirguppi, Tq:Athani,
Dist:Belgaum.

...Petitioners.

(By Sri.Jagadish Patil, Adv.,)

A N D :

1. The Executive Engineer,
M.R.B.C.Division No.1,
Naragund, Dist.Dharwad.
2. The Executive Engineer,
M.R.B.C.C.Division No.3,
Byhatti, Dist:Dharwad.
3. The Executive Engineer,
M.R.B.C.C. Division No.5,
Ron, Dist:Dharwad.
4. The Executive Engineer,
M.R.B.C.C.Division No.2,
Navilutheerth.
5. The Executive Engineer,
M.L.B.C.C.Division No.1,
Ramadurg.
6. The Executive Engineer,
M.L.B.C.C.Division No.3,
Badami.
7. The Executive Engineer,
Minor Irrigation Division,
Belgaum.
8. The Executive Engineer,
G.R.B.C.C.Division No.3,
Koujalagi, Dist:Belgaum.

9. The Executive Engineer,
Zilla Parishad,
BELGAUM.

10. The Executive Engineer,
G.R.B.C.C.Division No.4,
Ghataparabha,
BELGAUM DIST.

11. The Executive Engineer,
G.R.B.C.C. Division No.5,
Koujalagi,
BELGAUM DISTRICT.

12. The Executive Engineer,
P.W.D. Division,
BELGAUM.

13. The Executive Engineer,
Zilla Parishad Division,
Chikodi,
BELGAUM DISTRICT.

14. The Executive Engineer,
Minor Irrigation Division,
BELGAUM.


...Respondents.

(By Sri.Ashok Naik, HCGP, for Respts.)

- - -

These writ petition filed praying to direct the respondents to prohibit from endorsing the schedule of rates to the petitioner as per the notification dated 20/30-8-1990 vide Annexure-B and also the notification dated 28-5-1994 vide Annexure-C ; etc.,

...38



~~This writ petition filed praying to quash Annex A dated 19.10.97 by H.V.~~

- - -

In W.P.No.6310/1998.

BETWEEN :-

Sri.Krishnamurthy,
s/o R.Subbaramaiah,
Major, Contractor,
No.23, 'Archana'
6th Main Saraswathipuram,
MYSORE - 570 009.

...Petitioner.

(By Sri.B.Srinivasa Gowda, Adv.,)

A N D :

1. The State of Karnataka,
Department of Commerce &
Industry, M.S.Building,
BANGALORE-1.
2. The Director of Mines &
Geology, Karnataka State,
Lalbagh Road,
BANGALORE.
3. The Executive Engineer,
No.1 Division, K.U.W.S.&.D.B.,
Saraswathipuram,
MYSORE-9.
4. The Executive Engineer,
No.2 Division, K.U.W.S.& D.B.,
Yadavagiri,
MYSORE-20.
5. The Executive Engineer,
No.1, K.U.W.S. & D.B.,
Saraswathipuram,
Mysore Division,
MYSORE.

...Respondents.

(By Sri.Ashok Naik, HCGP, for Respts.)

This writ petition filed praying to direct them not to deduct any amount from the bills of the petitioners submitted for payment to the respondents towards royalty charges, direct R-3 & r to refund if any amount already been deducted by them towards royalty charges; etc.,

- - -

In W.P.No.8399/1998.

BETWEEN :-

Sri.Narayan,
s/o Venkataraman Shetty,
age:65 years, N.V.Shetty Class-I
Engineers and Contractors,
Vivekanagar, Kumta,
Uttara Kannada Dist.

...Petitioner.

(By Sri.B.M.Siddappa, Adv.,)

A N D :

1. The State of Karnataka,
by its Secretary,
Finance Department,
Vidhana Soudha,
Bangalore.
2. The Executive Engineer,
P.W.D.Building Division No.1&2
Bangalore-1.
3. The Executive Engineer,
P.W.D., Bangalore Division,
Bangalore-1.
4. The Executive Engineer,
NH Division, Belgaum.
5. The Executive Engineer,
P.W.D.Karwar Division,
Karwar.

...40

6. The Executive Engineer,
ZP Engineering Division,
Karwar.

...Respondents.

(By Sri.Ashok Naik, HCGP, for Respts.)

- - -

This writ petition filed praying to direct the respondents to forbear from enforcing the schedule of rates to the petitioner as per the notification dated 15-7-86 & 20-3-90 produced as Annexures-A to C respectively;

- - -

In W.P.Nos.7922 & 7927/98.

BETWEEN :-

1. B.R.Krishnamurthy,
s/o B.Rangappa, Class-I
Civil Contractor (Regd),
Baralu, Channarayapatta,
Hassan Dist.
2. R.Chandrashekar,
C/o Rajashekar,
Class-I Civil Contractor,
K.R.Puram,
HASSAN.
3. V.Thammegowda,
s/o Venkataramaiah,
Class I Registered,
Civil Contractor, Hema-
vathinagar,
HASSAN.
4. Rajashekar,
s/o Somegowda,
Class III Registered
Civil Contractor,
Juduregundi, Dudda Hobli,
Hassan Tq & Dist.

5. Suresh Kumar,
s/o Jeethmal,
Class III Registered
Civil Contractor,
Chikkabasti Road,
HASSAN.
6. Ramesh Kumar,
s/o Jeethmal, Class-II
Registered Civil Contractor,
Chikkabasti Road,
HASSAN.

...Petitioners.

(By Sri.B.Srinivasa Gowda, Adv.,)

A N D :

1. The State of Karnataka,
Rept. by its Secretary,
Dept. of Commerce & Industries,
M.S. Building,
BANGALORE-1.
2. The Director of Mines &
Geology, Karnataka State,
Lalbagh Road,
BANGALORE.
3. The Executive Engineer,
P.W.D. Hassan Division,
HASSAN.
4. The Executive Engineer,
KHB, Hassan Division,
HASSAN.
5. The Secretary,
APMC, Hassan.
6. The Secretary,
APMC, Channarayapatna.
7. The Secretary,
APMC, Sakleshpura.
8. The Executive Engineer,
K.S.R.T.C. Mysore Division, (CE Divn)
MYSORE.

9. The Executive Engineer,
Yagachi Project,
Beluru.
10. The Executive Engineer,
Hemavathi Project,
GORURU.
11. The Executive Engineer,
C.R.Patna Divn.,
C.R.Patna.
12. The Executive Engineer,
Shravanabelagola Divn.,
SHRAVANABELAGOLA.
13. The Executive Engineer,
Yadiyuru Division,
Yediyur.
14. The Executive Engineer,
Turvekere Division,
Tumkur Dist.
15. The Chief Manager,
KSIDC, Rajajinagar,
BANGALORE-10.
16. The Commissioner,
C.M.C.
HASSAN.
17. The Executive Engineer,
Minor Irrigation,
HASSAN.
18. The Executive Engineer,
Karnataka Slum Clearance
Board.
19. The Executive Engineer,
ZP Hassan Division,
HASSAN.
20. The Executive Engineer,
C.R.Patna Division,
C.R.Patna.

21. Chief Development Officer/
Executive Engineer,
K.A.I.D.E.,
BANGALORE.

...Respondents.

(By Sri.Ashok Naik, HGGP,for Respts.)

- - -

This writ petition filed praying to direct the respondents not to deduct any amount from the bills of the petitioners submitted for payment to the respondents towards royalty charges, etc.,

- - -

In W.P.No.7902/1998.

BETWEEN :-

S.M.Sangam,
Class-I Contractor,
Near College,
Maruti Nagar,
Muddebihal,
Bijapur Dist.

...Petitioner.

(By Sri.B.V.Katageri, Adv.,)

A N D :

1. The State of Karnataka,
represented by the Secretary
to Government Revenue Dept.,
M.S.Building,
BANGALORE-1.
2. The State of Karnataka,
Rep. by its Secretary to
Government, Department of
Industries & Commerce,
Vidhana Soudha, Bangalore-1.

3. The Director of Mines & Geology, Manjog Building Lalbagh Road, Bangalore.
4. The Executive Engineer, U.K.P. Ramapura, Division, I, II, III, Sindagi Taluk.
5. The Executive Engineer, P.W.D. Bijapur.
6. The Executive Engineer, U.K.P., KJBW Division, Jamkhandi Almatti, Bagalkot.
7. The Executive Engineer, UKP R & R Division, Jamkhandi, Almatti, Bagalkot.
8. The Executive Engineer, UKP, J.B.N. Division, Heemarayanagudi, Shahapur Taluk, Gulbarga District.
9. The Executive Engineer, UKP, Division No. I, IV
10. The Executive Engineer, UKP, Rahula bonde, Tq: Lingasur.
11. The Executive Engineer, UKP, Division I, Ilkal, Bagalkot Tq.,
12. The Executive Engineer, Bagalkot Town, Development Authority, Bagalkot.

13. The Executive Engineer,
Minor Irrigation Division,
Bijapur.
14. The Executive Engineer,
Zilla Parishat, Bagalkot,
Bijapur District.
15. The Executive Engineer,
P.W.D. MRBC, Canal Divn.,
Badami, Gokak,
Bijapur District.
16. The Executive Engineer,
P.W.D. Raichur,
Dist. Raichur.

...Respondents.

(By Sri.Ashok Naik, HCGP, for Respts.)

- - -

This writ petition filed praying to direct the respondents not to deduct the royalty as per the notification dated 15-7-86 dated 30-3-90 vide Annexures-A & B respectively by the R-2;

In.W.P.No.8930/1998

BETWEEN:-

Sidramaappa S/o Hanmantappa,
Major, P.W.D. Contractor,
R/o Old Shahabad Road,
Shahabad,
Dist: Gulbarga.

..PETITIONER

(By Sri N.S.Deshpande, Advocate)

AND:-

1. The State of Karnataka,
by its Secretary to Government
Commerce and Industries Department,
M.S.Building, Bangalore-1.

2. Executive Engineer,
P.W.D. Gulbarga Division,
Gulbarga.
3. Executive Engineer Zilla Panchayat
Gulbarga. Dist: Gulbarga.
4. Executive Engineer,
P.W.D. Division, Yadgir,
Dist: Gulbarga.
5. Executive Engineer Zilla Panchayat
Yadgir, District: Gulbarga.
6. Executive Engineer Slum Clearance
Board Hubli Division, Hubli.
7. Executive Engineer APMC Gulbarga
Division, Gulbarga, Dist: Gulbarga.
8. Executive Engineer, KEB Gulbarga Division,
Gulbarga.
9. Executive Engineer, KUWS & DB,
Gulbarga Division, Gulbarga.
10. Executive Engineer Minor and Majors
Irrigation Gulbarga Division,
Gulbarga.
11. Executive Engineer KSRTC Gulbarga
Division, Gulbarga.

..RESPONDENT

(By Sri Ashok Naik, HCGP)

* * *

This Writ Petition filed u/a 226 & 227 of the Constitution of India with a prayer to Direct the respondents to for bear from enforcing, the schedule of rates to the petitioners, as per notification dt. 20.3.90 vide Amx-A and notification dt. B dt. 28.5.94 by R-1 and etc.

In W.P.No.10186-10188/1998

BETWEEN:-

1. Shri.B.K.Angadi,
S/o K.J.Angadi,
aged about 48 years,
Resident of Hukkeri
Post and Taluk,
Belgaum District.
2. B.P.Metgud, S/o
P.H.Metgud,
aged about 50 years,
Resident of Jalipur Village,
Huttur Post,
Mudhol Taluk,
Bagalkot District.
3. A.M.Koli, S/o Koli,
aged about 48 years,
Resident of Kadapur Village,
Chikkodi Taluk,
Belgaum District.

..PETITION RS

(By Sri T.P.Rajendera Kumar Sungay, Adv)

AND:-

1. State of Karnataka,
Public Works Department,
M.S.Building,
Dr.Ambedkar Veedhi,
Bagalore-1, represented
by its Secretary.
2. The Secretary,
Department of Commerce and
Industries,
M.S.Building,
Dr.Ambedkar Veedhi,
Bangalore-1.

-: 48.: -

3. The Executive Engineer,
Ghataprabha Right Bank Canal,
Division 3, Gokak,
Belgaum District.
4. The Executive Engineer,
Ghataprabha Right Bank Canal,
Division 4, Ghataprabha,
Gokak Taluk,
Belgaum District.
5. The Executive Engineer,
Ghataprabha Left Bank Canal,
Division 1,
Ghataprabha, Gokak Taluk,
Belgaum District.
6. The Executive Engineer,
Zilla Panchayat Engineering
Division, Chikkodi,
Belgaum District.
7. The Executive Engineer,
Ghataprabha Right Bank Canal,
Division 5, Lokapur,
Camp Koujalagi,
Gokak Taluk,
Belgaum District.
8. The Executive Engineer,
Minor Irrigation Division,
Belgaum.
9. The Executive Engineer,
Public Works Department,
Belgaum.
10. The Executive Engineer,
Ghataprabha Right Bank Canal,
Division 2, Hidkal Dam,
Hukkeri Taluk,
Belgaum District.

11. The Executive Engineer,
World Bank Zilla Panchayat,
Engineering Division,
Belgaum.
12. Executibe Engineer,
Public Works Department,
Bijapur Division,
Bijapur.
13. The Executive Engineer,
Zilla Panchayat Engineering
Division, Bijapur.
14. The Executive Engineer,
Zilla Panchayat,
Bagalkot.

..RESPONDENTS

(By Sri Ashok Nai, HCGP)

This Writ Petition filed u/a 226 & 227 of the Constitution of India with a prayer to Direct the respondents to forbear from enforcing the schedule of rates stated in the Notification vide Annex-A. dt. 15.7.86 Annex-B dt. 20.3.1990 and Annex-C. dt. 28.5.94 from the petitioner and etc.

IN W.P.No.9659-9663/1998

BETWEEN:-

1. G.Sathyanarana S/o Rama Rao
Age: Major, Occ: Contractor,
R/o Geetha Camp, Tq: Sindhanur.
2. S.N.Patil S/o Neelakata Rao Patil,
Age: Major, Occ: Contractor,
R/o Santhekellur, Tq: Lingusugur,
Dist: Raichur.

-: 50 :-

3. S.B.Patil, Age: Major,
Occ: P.W.D. Contractor,
R/o Gang Bowdy Road,
Bijapur.
4. Somanath R.Sulibhavi, Age: Major,
Occ: Contractor R/o Kadelewad,
Tq: Sindgi, Dist: Bijapur.
5. Sangnagouda S/o Siidagondappa
Biradar, Age: Major, Occ: Contractor,
R/o Kadelewad, Tq: Sindgi,
Dist: Bijapur.

..PETITIONERS

(By Sri Basavaraj Kareddy, Advocate)

AND:-

1. The State of Karnataka, by
its Secretary, Department
of Industries and Commerce,
M.S.Buildings, Bangalore-1-
2. The Secretary,
The Agricultural Produce
and Marketing,
Sindhanur. Committee,
Raichur Dist.
3. The Secretart,
Agricultural Produce Marketing
Committee, At:Kustagi,
Dist: Koppal.
4. The Secretary,
Agricultural Produce Marketing
Committee, At: Lingasugur,
Dist: Raichur.
5. The Executive Engineer,
P.W.D.Raichur Division,
Raichur.

6. The Executive Engineer,
Z.P.E. Division,
Raichur.
7. The Executive Engineer,
I.D.No.3, Canal Division,
Sindhaur, Dist: Raichur.
8. The Superintending Engineer,
CADA. Munirabad, Dist: Raichur.
9. The Executive Engineer,
P.W.D. Koppal Division,
Koppal.
10. The Executive Engineer,
Z.P.E. Koppal Division,
Koppal.
11. The Executive Engineer,
P.W.D.Division, Bijapur.
12. The Executive Engineer,
P.W.D.Division, Yadgir,
Dist: Gulbarga.
13. The Executive Engineer,
P.W.D.Division,
Gulbarga..
14. The Executive Engineer,
P.W.D. Division, Bagakote.
15. The Secretary,
Agricultural Produce Market-
ing Committee, Bijapur.
16. The Bijapur Development
Authority, by its Commissioner.

-: 52 :-

17. The City Municipal Council,
Bijapur, by its Commissioner.

..RESPONDENTS

(By Sri Ashok Naik, HCGP)

This Writ Petition filed u/a 226 & 227 of the Constitution of India with a prayer to Direct the respondents not to collect royalty from the bills of the petitioners, under Minor Minerals concession Rules, 1990. and etc.

In W.P.No.9172/1998

BETWEEN:-

D.S.Bullutagi,
S/o.Shankarappa Bullutagi,
Major, Class-I Contractor,
R/o Kushtagi, Dist:Koppal.

..PETITIONER

(By Sri Shreeshaail Turkan i, Advocate)

AND:-

Executive Engineer,
Major Works Division,
K.E.B., Bellary.

..RESPONDENTS

(By Sri Ashok Naik, HCGP)

This Writ Petition filed u/a 226 & 227 of the Constitution of India praying to Prohibit the respondents from enforcing the schedule of Rates against the petitioner, as per the notification dt.15.7.86 as per Anx.A and B dt,20.3.90 and etc.

These writ petitions coming on for hearing, the same having been heard and reserved for pronouncement of order, the Court made the following order :

ORDER

The petitioners have in this bunch of cases prayed for a mandamus directing the respondents not to deduct any amount on account of royalty from their running bills payable in connection with the execution of the contracted works. In addition, they have also challenged the revision in the rates of royalty prescribed by the Government in exercise of its powers and under Sec. 15 of the Mines/Minerals(Regulation and Development)Act, 1957.

2. The petitioners are civil contractors who have secured from the State Public Works Department and in some cases from local bodies contracts for the execution of ~~the~~ civil works. Bills for payment of the amount due in connection with such works are raised by them from time to time from which the authorities make deductions on account of royalty payable on ~~the~~ minor minerals like sand, stones etc., used by the contractors in the execution of the works. Aggrieved

by these deductions, the petitioners have assailed the same and prayed for a mandamus directing the respondents to forbear from doing so, for no amount is according to the petitioners payable on the material used by them which they claim to have purchased from the licensed quarry owners. These purchases argue the petitioners from a legitimate source imply that the royalty amount stands paid by the quarry owners to the Government so that the question of making any such payment for the second time does not arise. Reliance is placed by the petitioners on certain decisions of this Court to which I shall presently refer. Suffice it to say that the deductions made by the Respondents are in pursuance of the power reserved by them under the terms of the agreements executed between the parties. These agreements have not been produced by the petitioners to enable this Court to examine the nature of the power reserved and the conditions subject to which the same is exercisable. In the absence of these documents and in the absence of any challenge in the writ petitions as to the validity of any such contractual provision authorising deductions it is safe to assume that the deductions being made are authorised by the terms of the contracts entered into between the parties. That being so, the

validity of any such deductions from the running bills would in my opinion take the entire controversy into the realm of contractual rights of the parties. Since however this Court has in the decisions rendered earlier expressed its opinion on the legitimacy of such deductions and even issued general directions which have been accepted by both the sides, I do not want to relegate the parties to a civil action before the competent court which would otherwise have been ^{the} proper forum for adjudication of any claim arising out of the works executed by the petitioners under the contracts between the parties.

3. The validity of a deduction on account of royalty from the bills of the contractors was first examined by this Court in SUBASH RUKMAYYA GUTTEDAR .v. STATE OF KARNATAKA /ILR 1990 Kar 1823/. This Court held that Rule 19 of the Minor Mineral Concession Rules permitted the levy and collection of royalty on minor minerals only if they were quarrying from the lease area in terms of a quarry lease granted for the purpose. In the absence of such a lease any person who removed the minerals with the permission of the State Government was not according to the view taken by Swami J., liable to pay any royalty. A writ Appeal preferred against the said decision was

dismissed but in a further appeal taken by the State Government to the Supreme Court, the view expressed by this Court was reversed. The Supreme Court in its decision reported in AIR 1993 SC 860 (STATE OF KARNATAKA & OTHERS .v. SUBHASH RUKMAYYA GUTTEDAR & OTHERS) held that if the contractors are permitted by the Government to enter upon Government quarries to extract minor minerals and to utilise the same in the execution of the contracted works they become liable to pay royalty. Such a liability it was held arose on account of the terms of the contract, even when there was no specific lease granted to the contractor in terms of the MMC Rules.

4. In Pallavi constructions .v. State of Karnataka & Others / W.P.No.24305/1992/ Rajendra Babu, J., while distinguishing Subhash Rukmayya Guttedar's case supra held that apart from the type of cases that fell for consideration in that case there were other categories of cases also where the contractor had an independent right to use in the execution of the works the minor minerals obtained from a private quarry or from quarries which had been leased to some person from whom he purchased such material. That category of cases it was held did not engage the attention of the Supreme Court in Subhash Guttedar's case. It was held that if material

is allowed to be removed from an authorised quarry it must be presumed that royalty had been collected on the same. That being so, the question of payment of royalty once over again by the contractors would not arise. The Court accordingly declared that wherever material is used by the contractors obtained from persons to whom quarries had been leased or other private quarries, they shall not be liable to pay any royalty and the question of deductions of the same from their bills would also not arise.

5. The above view was followed by my noble brother Raveendran, J., in W.Ps.No.31264-66/1994 in G.V.KUMAR & OTHERS .vs. STATE OF KARNATAKA. That was also a case where the petitioners had not produced the copies of the contract documents nor were the relevant contractual provisions disclosed. The particulars of the amount of royalty claimed by way of refund was also not available. In the absence of these factual aspects, the Court declined to go into the question of refund if any due to the contractors. Relying upon Pallavi Contractor's case supra, the Court held that only general directions could be issued. The writ petitions were petitions were accordingly disposed of with the following directions :

" (a) Where providing the material (subjected to royalty) is the responsibility of the contractor and Department provides the contractor with specified borrow areas for extraction of the required compensation material, the contractor will be liable to pay royalty charges for the material (minor mineral) extracted from such areas, irrespective of whether the contract is a item rate contract or a lump sum contract. Hence deduction of royalty charges in such cases will be legal. For this purpose non-execution of mining lease is not relevant, as the liability to pay royalty arises on account of the contractor extracting material from a Government land, for use in the work.

(b) Where under the contract, the responsibility to supply the material (minor minerals) is that of the Department/employer and the contractor is required to provide only the labour and service for execution of any work involving use of such material, and the unit rate does not include the cost of material, there is no liability on the contractor to pay any royalty. This will be the position even if the contractor is required to transport the material from outside the work site, so long as the unit rate is only for labour or service and does not include the cost of material.

(c) Where the contractor uses material purchased in open market, that is material purchased from private sources, like quarry

lease holders or private quarry owners, there is no liability on the contractor to pay any royalty charges.

(d) In cases covered by paras (b) and (c) the Department cannot recover or deduct any royalty from the bills of the contractor and if so deducted, the Department will be bound to refund any amount so deducted or collected to the contractor.

(e) Subject to the above, collection of royalty by the Department or refund thereof by the Department will be governed by the terms of contract.

(f) Nothing stated above shall be construed as a direction for refund in regard to any particular contract. The Department or Authority concerned shall decide in each case, whether royalty is to be deducted or if any royalty is already deducted, whether it should be refunded, keeping in view the above principles and terms of the contract."

6. Consequent upon the above directions, the Respondents appear to have issued a circular dated 18-3-1997 reiterating the tests laid down by this Court and directing the authorities concerned to act in accordance with the same. Dissatisfied with even the Circular, counsel

for the petitioners argued that the deduction of royalty must be stopped by issuing a mandamus to the Respondents who it was urged continued to make such deductions even after the directions from this Court and the Circular on the subject. I am however unable to agree with that submission. This Court has in G.V.Kumar's cases simply laid down the principles on which the making of the deductions and their refund shall have to be examined by the authorities concerned. No directions for refund of the amounts were issued by this Court in the said case or in any other case for that matter. That is primarily because the question whether the petitioners have purchased the material utilised by them from the authorised quarries is a pure and simple question of fact. In the absence of any material to conclusively show that such material had been purchased from authorised quarries and should therefore be deemed to be royalty paid material, it would not be possible either for this Court or for any other Court or authority for that matter to recognise the right of the petitioners to claim refund or a direction for not making the deductions in future. Counsel appearing for the respondents argued and in my opinion rightly so that in each one of these cases, the right to deduct having been reserved in favour of the respondents, such a deduction cannot be found fault with unless

the respondents show that the deduction is in respect of a material that was free from any royalty charge the same having been paid by the authorised quarry. IN EXECUTIVE ENGINEER .v. M/S.NAVEEN MECHANISED CONSTRUCTIONS (P) LIMITED & OTHERS / WRIT APPEAL No.3460/ a Division Bench of this Court has in fact held that deductions of royalty in terms of the contract cannot be found fault with by the contractors for any such attempt would amount to seeking an order from the Court to avoid the terms of the contract voluntarily entered into by them. The Court in this regard observed thus :

" When the first respondents has agreed with the appellant to abide by the clause in the contract, the first respondent - writ petitioner cannot be allowed to turn round and say that he is not liable to act according to the said clause. The prayer of the first respondent in the writ petition amounts to seeking an order from this Court to avoid terms of the contract, which he has voluntarily entered into with the appellant. The stipulation in the contract executed by the appellant clearly disclose that the writ petitioner has agreed to abide by the conditions stipulated. The writ petitioner did not disclose in the writ petition where the rates

quoted by him for the works undertaken by him was inclusive of the royalty or not. Therefore, we are of the view that the case of the petitioner does not come under the third category mentioned by the learned Single Judge in the writ petition relied upon by him to dispose of the present case."

8. That was an appeal against an order where a single Judge of this Court had following the view taken in Pallavi Construction's case allowed the writ petition on similar lines. The Division Bench however set aside the order passed by the single judge and dismissed the writ petition holding that the deductions in question were according to the terms contained in the contract which could not be avoided by the petitioners.

9. In the present case also the deductions being made are in accordance with the terms stipulated in the contracts executed between the parties. The being so, the making of the deductions cannot be found fault with for having agreed to subject themselves to such deductions, the petitioners cannot question the same in the extraordinary writ jurisdiction of this Court. If the petitioners claim to have paid the royalty on the minor minerals utilised by them, they shall have

to make a claim to that effect supported by the requisite material before the authorities competent in that regard. Upon consideration of such material, if the authority making the deductions is satisfied that the material utilised by the contractor was royalty paid material, the amount deducted from the bills shall have to be refunded for it is not the case of the respondents that royalty would be recoverable from the petitioners twice; once when the purchase is made from the quarry owner and the second time when their bills are passed by the concerned Officers.

10. Mr. Naik who was assisted by the Chief Engineer, P.W.D. and Director, Mines and Geology was fair enough to state that claims for refund of royalty on the ground that the material used was royalty paid material as and when made shall be examined by the Director, Mines and Geology on whose certificate the Officer making the deductions would consider the request for refund and being satisfied that the royalty has already been recovered, direct the refund of any such amount. This Statement should in my opinion suffice and should provide to the petitioners an opportunity as also the forum for lodging their claims for refund. Suffice it to say that

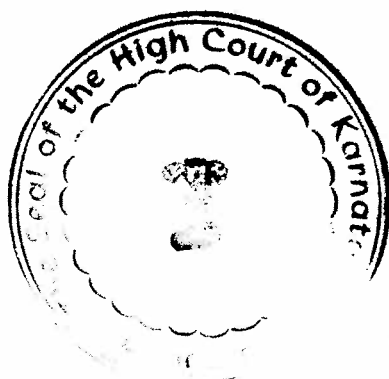
263
887

there is no room for issuing any mandamus to the respondents to forebear from making the deductions as claimed by the petitioners. The deductions if and when made can be claimed back by the petitioners on furnishing satisfactory proof of the fact that the material used was royalty paid.

11. That leaves me with the only other question relating to the revision of royalty rates. That controversy should not however detain us for long for a similar challenge was thrown to the revision of rates in Subhash .v. State of Karnataka in W.P.Nos.4103-04/1994 decided on 3-10-1994 and G.V.Kumar .v. State of Karnataka in W.P.Nos.31264-66/1997. This Court had in those decisions repelled the challenge to the Notifications issued by the government enhancing the royalty rates. Following the view taken in the said cases, I have no difficulty in rejecting the challenge to the revision of royalty rates also.

12. In the result, there is no merit in these writ petitions which fail and are hereby dismissed but in the circumstances without any orders as to costs.

Jm/-
Jan/-



Sd/-
JUDGE